

TINGKAHLAKU ETIKA PEGUAM DI SEMENANJUNG MALAYSIA

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HAIRUDDIN MEGAT LATIF**

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Bagi Memenuhi Keperluan Pengijazahan Ijazah Doktor Falsafah
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ABSTRAK

Objektif utama penyelidikan ini ialah mengkaji tahap tingkahlaku etika peguam di Semenanjung Malaysia. Rekabentuk kajian secara tinjauan rentas telah digunakan dalam kajian ini. Kutipan data melibatkan pengedaran soal selidik. Responden kajian ini ialah para peguam. 107 soal selidik telah dianalisis. Kajian ini menggunakan pengukuran *Defining Issue Test* (DIT) untuk mengukur tingkahlaku etika. Secara am, dapatan menunjukkan skor min tahap tingkahlaku etika para peguam berada pada tahap pasca konvensional dengan indeks P DIT sebanyak 55.74 atas skor maksima 100. Dapatan menunjukkan tiada perbezaan yang signifikan dalam aspek tingkah laku etika diantara lelaki dan wanita. Sungguhpun begitu, dapatan menunjukkan tahap tingkah laku peguam wanita lebih tinggi berbanding peguam lelaki. Min bagi wanita adalah 61.35, sedangkan min bagi lelaki 52.68. Kajian mendapati terdapat perbezaan yang signifikan diantara responden yang telah didedahkan kepada pendidikan etika semasa di institusi pengajian tinggi berbanding dengan mereka yang tidak pernah mendapat pendedahan. Persepsi para peguam terhadap pelaksanaan undang-undang, peraturan serta latihan dalam kalangan peguam adalah sederhana tinggi dengan skor 3.3 atas skor 5. Kesemua pemboleh ubah bebas yang diambil kira dalam kajian ini berkecenderungan mempengaruhi tingkahlaku secara positif kecuali persepsi terhadap kod etika, jantina, pendedahan kursus etika semasa perkhidmatan dan dalam seminar serta tempoh masa menjadi peguam. Pengetahuan dan pemahaman kod etika peguam paling berpotensi mempengaruhi tingkahlaku peguam. Hasil kajian ini mendapati latihan mengenai etika peguam perlu dipertingkatkan. Akhir sekali, dicadangkan agar penguatkuasaan etika peguam diperkukuhkan lagi.

Katakunci: Tingkahlaku, etika, peguam-peguam, pengetahuan dan pemahaman, persepsi.

ABSTRACT

The main objective of this research is to study the ethical behaviour of lawyers in Peninsular Malaysia. The cross sectional studies' research design has been applied in this study. The data collection included the distribution of questionnaires. Respondents of this study are lawyers. 107 questionnaires have been analyzed. This study used the Defining Issue Test (DIT) measurement to measure the ethical behaviour. In general, the findings showed that the mean score of the stage of ethical behaviour among lawyers is at a post conventional stage with the P DIT index value of 55.74 on the maximum score of 100. The findings further showed that there is no significant different on the aspect of the ethical behaviour between the male lawyers and the female lawyers. However, the findings did show that the stage of the ethical behaviour of female lawyers is higher than that of the male lawyers. The mean for the female lawyers is 61.35, while that of the male lawyers is 52.68. The findings has also shown that there is a significant different between the respondents who have been exposed to ethical education at institutions of higher learning as compared to those who have never been exposed to ethical education. The perception of lawyers toward the execution of the law, rules and training are moderately high with a score of 3.3 over 5. All the independent variables that were taken into account in this research tend to have a positive influence on the behaviour of lawyers, with the exception of the perception towards the code of ethics, gender, attending in-service courses or seminars on ethics and the long duration of being a lawyer. The knowledge and understanding of the lawyer's code of ethics has the most potential in influencing the lawyers' ethical behaviour. The study found that training pertaining to the lawyer's ethics needs to be improved. Finally, it is suggested that there is a need to reinforce the code of ethics on all lawyers.

Keywords: Behaviour, ethics, lawyers, knowledge and understanding, perception.

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BAB SATU

PENGENALAN

1.0 Pendahuluan

Menurut Thomas (2000) peguam-peguam adalah kumpulan profesional yang sangat berkuasa. Peguam-peguam juga adalah kumpulan profesional yang memiliki keistimewaan dan eksklusiviti yang tersendiri (Thomas, 2000). Manakala, menurut Lennertz (1991), Crier (2002), Horn III (2003) dan Yeap Ghim Guan (2004) profesion guaman adalah satu profesion yang mulia. Kemuliaan profesion guaman ini telah dinyatakan oleh mahkamah dalam kes *Syarikat Pengangkutan Sakti Sdn. Bhd. lwn. Tan Joo King t/a Bengkel Son Tak* (1997) 5 MLJ 705 yang mana mahkamah menegaskan Kaedah 28(1) Kaedah-Kaedah Profesion Guaman (Amalan dan Etiket) 1978 (KPGAE 1978) mestilah dipatuhi agar pengendalian litigasi adalah teratur dan untuk mengekalkan serta mematuhi taraf kelakuan yang dikehendaki daripada ahli-ahli profesion yang mulia ini (Kaedah 28(1), KPGAE 1978). Manakala Kaedah 16 KPGAE 1978 juga memperuntukkan seorang peguam hendaklah tanpa rasa takut menegakkan kepentingan anak guamnya, kepentingan keadilan dan kemuliaan profesion tanpa menghiraukan akibat-akibat yang tidak menyenangkan (*unpleasant consequences*) yang mungkin menimpa dirinya atau terhadap orang lain (Kaedah 16, KPGAE 1978). Kaedah 31 juga menyatakan seorang peguam hendaklah sentiasa menjaga kemuliaan dan kedudukan tinggi profesion guaman (Kaedah 31, KPGAE 1978).

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